

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**PIZZA PIAZZA, INC. d/b/a BADO'S
PIZZERIA & DELICATESSEN AND d/b/a
BADO'S PIZZA GRILL AND ALE HOUSE,**

and

Case 06-CA-279445

ANDREW YOHO

ORDER¹

We grant the General Counsel's request for special permission to appeal from Administrative Law Judge Ira Sandron's February 9, 2022² Order from the bench adjourning the hearing with the hope that it may resume in person on March 28 or soon thereafter. We deny the appeal on the merits and remand the case to the judge with instructions to reschedule and conduct the hearing consistent with this order.³

According to the General Counsel's special appeal request, on February 9, the judge opened the hearing in this case via videoconference, as ordered by the Regional Director for Region 6.⁴ Before taking any substantive evidence, however, he adjourned the hearing to March 28 with the hope that it could be held in person. The judge stated further that if, on March 28,

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² All dates are in 2022.

³ The Respondent did not file an opposition.

⁴ Before the hearing, the Respondent filed a motion with the Regional Director for an in-person hearing, or postponement until an in-person hearing could be conducted. The Regional Director denied the motion, stating "[t]he Agency has not yet set a date for the resumption of in-person operations, and there are no protocols in place for visitors to the Field offices. In addition, COVID-19 positivity rates in the area remain high and are increasing in Allegheny County as of the date of this Order."

Covid-19 conditions did not allow for an in-person hearing, the hearing would likely proceed via videoconference. The judge continued, however, stating that, if it appeared that an in-person hearing could be held soon after March 28, then he may further postpone the hearing.

On March 1, while this appeal was pending, the Agency announced its intent to resume in-person operations on April 4. In light of this announcement, we find that the judge did not abuse his discretion in postponing the hearing for a short time with the hope of resuming it in person. *See* 29 C.F.R. § 102.43 (once hearing has opened, judge has discretion to “continue[the hearing] from day to day, or adjourn[it] to a later date or to a different place”). We deny the General Counsel’s appeal and remand the case to the judge to exercise his discretion to regulate the course of the hearing consistent with the following instructions: (1) Before the Agency returns to in-person operations, the judge may reschedule the hearing to be conducted entirely remotely; or (2) On or after the Agency returns to in-person operations (currently set for April 4), the judge may reschedule the hearing to be conducted in person, or partially in person, in accordance with the Board’s rules and regulations and forthcoming Agency health and safety protocols.

Dated, Washington, D.C., March 14, 2022.

LAUREN McFERRAN,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
GWYNNE A. WILCOX,	MEMBER